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09/461,336	12/15/1999	DAZHI CHEN	043311-0313722	3675
909 7590 12/27/2007 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER				
SHEIKH, ASEAND M				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/461,336

**Applicant(s)**

CHEN ET AL.

**Examiner**

Asfand M. Sheikh

**Art Unit**

3627

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 1-10, 14-16, 23-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131, and 133-153.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 11-13, 17-22, 48, 52-57, 82, 83, 99, 101, 113, 114, 130 and 132.

Continuation of Disposition of Claims: Claims rejected are 1-10, 14-16, 23-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131, and 133-153.

**DETAILED ACTION**

***Acknowledgements***

The amendment files on 10/08/2007 has been entered. Claims 1-10, 14-16, 23-45, 49-51, 58-81, 84- 98, 100, 102-112, 115-129, 131, and 133-153 are pending for examination. The examiner maintains the same ground of rejection therefore this action is made final.

***Election/Restrictions***

The examiner withdraws the Restriction Requirement for claims 1-10, 14-16, 23-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131, due to the Applicant's admission that claims 1-10, 14-16, 23-45, 49-51, 58-81, 84- 98, 100, 102-112, 115-129, 131 are not patentability distinct and that one search would encompass all claims. The examiner notes the search for claims 133-153 would therefore encompass all claims as noted the applicant's admission.

***Claim Rejections - 35 USC § 112***

The examiner withdraws the 35 USC § 112 rejection of claims 133-153.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 3-10, 14-16, 23-36, 38-45, 49-51, 84-98, 100, 102-112, 115-129, 131, 133, 136-140, 145, and 146 are rejected under 35 U.S.C. 103(a), as best understood, as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard).

**As per claim 133**, Mossberg discloses a method enabling the conducting of a silent auction (Mossberg, see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (Mossberg, see at least, col. 3, lines 49-54). Further Mossberg discloses an auction item which may include a certificate entitling the bearer to specific goods or services (Mossberg, see at least, col. 3, lines 57-61).

The examiner notes that Mossberg is silent with respect to a web-site comprising an online auction with an immediate buy option at a fixed discounted price for obtaining certificate immediately and a gift certificate that obtains a discount from the predetermined price during non-peak demand periods and non-users pay the predetermined price without the discount during non-peak demand periods.

Godin discloses a website that auctions at least one item at with an immediate buy option at a given fixed dollar amount, for a given period of time, without bidding to allow one or more users to win or purchase via an instant purchase feature (Godin, see at least, col. 2, lines 45-67; Examiner notes that continuity updating price is dependent for time remaining in the auction, but it is fixed for a given amount of time).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include a website that auctions at least one item at with an immediate buy option at a given fixed price, for a given period of time, without bidding as taught by Godin. One of ordinary skill in the art would have been motivated to modify the references in order to provide the excitement or the real time

dynamic feedback of a traction auction (Godin, see at least, col. 1, lines 53-55).

Leonard discloses a coupon that provides a discount from a predetermined price during non-peak hours (Leonard, see col. 5, lines 47-60; Examiner interprets a coupon to be analogous to a certificate).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include a coupon that provides a discount from a predetermined price during non-peak hours as taught by Leonard. One of ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

**As per claim 136,** The examiner notes that Mossberg is silent with respect to wherein the web site includes an auction display feature, the auction display comprising one or more of a name of the restaurant, a description of the at least one discounted gift certificate, including a period of validity and a value, any minimum bid requirement, and a status of the auction, including a current bid and time left for bidding.

Godin discloses wherein the web site includes an auction display feature including a current bid and time left for bidding on an item (Godin, see at least, col. 2, lines 45-67; FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include wherein the web site includes an auction display feature including a current bid and time left for bidding as taught by Godin. The motivation to combine is the same as claim 133, above.

**As per claim 137,** The examiner notes that Mossberg is silent with respect to wherein the web site includes a certificate display feature, the display comprising one or more of a restaurant name, a description of the at least one discounted gift certificate, a status of any auction for the gift certificate, and if an immediate buy option is available for the at least one discounted gift certificate, an indication that the immediate buy option is available and a fixed discounted price for the immediate buy.

Godin discloses wherein the web site includes an item display feature, the display comprising an indication that the



immediate buy option is available and a fixed discounted price for the immediate buy (Godin, see at least, col. 2, lines 45-67; FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include wherein the web site includes an item display feature, the display comprising an indication that the immediate buy option is available and a fixed discounted price for the immediate buy as taught by Godin. The motivation to combine is the same as claim 133, above.

**As per claim 138,** The examiner notes that Mossberg is silent with respect to wherein the web site includes an auction display feature, the auction display comprising a restaurant name, a description of the at least one discounted gift certificate, including a period of validity and a value, any minimum bid requirement, and a status of the auction, including a current bid and time left for bidding.

Godin discloses an auction display feature comprising the name of the entity providing the auction, a description of the item being auction, status of the auction, and including a

current bid and time left for bidding (Godin, see at least, FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include the features of the restaurant to an auction display feature comprising the name of the entity providing the auction, a description of the item being auction, status of the auction, and including a current bid and time left for bidding as taught by Godin. The motivation to combine is the same as claim 133, above.

The combination of Mossberg and Godin fails to explicitly disclose a description of the period of validity and value of the gift certificate.

Leonard discloses a description of the period of validity and value of the coupon (Leonard, see at least, Abstract and col. 5, lines 47-60; Examiner notes a promotion would contain the value).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg and Godin to include a description of the period of validity and value of the gift certificate as taught by Leonard. One of

ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

**As per claim 139**, the examiner notes the limitation of claim 139 is substantially similar to that of claim 138, and thus is rejected under similar grounds. Further the examiner notes Godin discloses an entity can offer multiple items for auction (Godin, see at least, FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include an entity can offer multiple items for auction as taught by Godin. The motivation to combine is the same as claim 133, above.

**As per claim 140**, the examiner notes the limitation of claim 140 is substantially similar to that of claim 139, and thus is rejected under similar grounds.

**As per claim 145**, The examiner notes that Mossberg is silent with respect to the user must register with the website prior to bidding on or purchasing a gift certificate.

Godin discloses user must register with the website prior to bidding on or purchasing an item (Godin, see at least, col. 4, lines 45-56).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include user must register with the website prior to bidding on or purchasing an item as taught by Godin. The motivation to combine is the same as claim 133, above.

**As per claim 146**, the examiner notes the limitation of claim 146 is substantially similar to that of claim 145, and thus is rejected under similar grounds. Further the examiner notes Godin discloses providing identification information (Godin, see at least, col. 4, lines 45-56).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include providing identification information as taught by Godin. The motivation to combine is the same as claim 133, above.

3. Claims 2, 37, 134 and 141-144 rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard) as applied to claim 133 above, and further in view of Barzilai United States Patent 6,012,045.

**As per claim 134**, the combination of Mossberg, Godin, and Leonard is silent with respect to a minimum bid price for an auction.

Barzilai discloses a minimum bid price for an auction (Barzilai, see at least, col. 11, lines 57-67 and col. 12, lines 1-10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a minimum bid price for an auction as taught by Barzilai. One of ordinary skill in the art would have been motivated to modify the references in order to provide entertainment to actual and potential customers in the form of an auction (Barzilai, see at least, col. 2, lines 17-18).

**As per claim 141**, the examiner notes the limitation of claim 141 is substantially similar to that of claim 138, and thus is rejected under similar grounds. However, the examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect to wherein more than one restaurant can offer gift certificates for auction.

Barzilai discloses wherein more than one individual can auction off items (Barzilai, see at least, col. 1, lines 52-58; the examiner interprets "operated by customers" to mean more than one individual auctioning items).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include more than one individual can auction off items as taught by Barzilai. The motivation to combine is the same as claim 134, above.

**As per claim 142-144**, the examiner notes the limitation of claim 142-144 is substantially similar to that of claim 138, 139 and 141, and thus is rejected under similar grounds.

4. Claim 135 rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard) as applied to claim 133 above, and further in view of Examiner's Official Notice.

**As per claim 135,** The examiner notes that Mossberg is silent with respect to gift certificate is valid during a non-peak demand period to reduce excess capacity.

Leonard discloses a coupon that provides a discount from a predetermined price during non-peak hours (Leonard, see col. 5, lines 47-60; Examiner interprets a coupon to be analogous to a certificate).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include a coupon that provides a discount from a predetermined price during non-peak hours as taught by Leonard. One of ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect to validity of reducing capacity during peak hours.

However, businesses have non-peak demand periods and only except coupons during the non-peak demand periods in order to reduce capacity during peak times in which full price is required. This helps increase revenue during peak-times.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include have non-peak demand periods and only except coupons during the non-peak demand periods in order to reduce capacity during peak times in which full price is required. One of ordinary skill in the art would have been motivated to do so in order to help increase revenue during peak-time periods.

5. Claim 147-148 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874



(hereinafter Leonard) as applied to claim 133 above, and further in view of Examiner's Official Notice.

**As per claim 147-148,** The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect including demographic information during registration.

However, many websites require user's to input demographic information during registration in order to better tailor to user's needs. This helps by maximizing the user's experience based on the collected data.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include having a user input demographic information during registration as taught by Examiners Official Notice. One of ordinary skill in the art would have been motivated to do so in order to maximize the user's experience based on the collected data.

4. Claims 149-153 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard) and further in view of Shear et al. United States Patent 6,112,181 (hereinafter Shear).

**As per claim 149,** The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect a restaurant search module.

Shear discloses a restaurant search module (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a restaurant search module as taught by Shear. One of ordinary skill in the art would have been motivated to combine the teachings in order to help you find the items you are looking for quickly and easily (Shear, see at least, col. 3, lines 20-31).

**As per claim 150,** The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect a restaurant search module including an interactive guide.

Shear discloses a restaurant search module including an interactive guide (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a restaurant search module including an interactive guide as taught by Shear. The motivation to combine is the same as claim 149, above.

**As per claim 151-152,** The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect to listing restaurants based on desired cuisine, zip code, or other geographic area parameters or other search parameters.

Shear discloses listing restaurants based on desired cuisine (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a listing restaurants based on desired cuisine, as taught by Shear. The motivation to combine is the same as claim 149, above.

**As per claim 153,** The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention as per claim 133, and further Shear teaches the restaurant search module and listing module as per claims 149-152.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to restaurant search module and listing module as taught by Shear. The motivation to combine is the same as claim 149, above.

***Response to Arguments***

6. Applicant's arguments filed 10/08/2007 have been fully considered but they are not persuasive.

The examiner notes the applicant argues that Mossberg, Godin, and Leonard, either alone or in combination, do not disclose, teach, or suggest at least the feature of "enabling one or more users to purchase the one or more discounted gift certificates by at least one of placing a bid on one or more discounted gift certificates for auction and being determined a winner, or via an instant purchase feature that enables the one or more restaurants to specify a fixed dollar amount for which a user can buy one of the one or more discounted gift certificates without participating in the auction" as recited in claim 133. The examiner disagrees.

The examiner first would like to note. That the use of "at least:... or," found in claim 133. The examiner notes that as written the examiner could interpret the claims without an instant buy feature and reject accordingly. However, the examiner still relies on the instant buy feature of Godin. The examiner notes Godin discloses a website that auctions at least one item at with an immediate buy option at a given fixed dollar

amount, for a given period of time, without bidding to allow one or more users to win or purchase via an instant purchase feature (Godin, see at least, col. 2, lines 45-67). The examiner notes this is a viable interpretation of Godin. The examiner further notes that even though this is a reverse auction there is a continuous updating price that is dependent for time remaining in the auction, but it is fixed for a given amount of time. Therefore at any given time there is a fixed amount that allows the customer to purchase the item at a given fixed price. The examiner notes that under the broadest reasonable interpretation this is what is claimed by the applicant. The argument is not persuasive and the rejection is maintained.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12/21/2007